

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

THE VILLAGE OF BURR RIDGE,	)	
an Illinois municipal corporation,	)	
	)	
Complainant,	)	
	)	Docket No.
v.	)	
	)	
COMMONWEALTH EDISON	)	
COMPANY, an Illinois corporation,	)	
	)	
Respondent.	)	

**VILLAGE OF BURR RIDGE  
COMPLAINT FOR DECLARATORY RULING**

NOW COMES the Plaintiff, THE VILLAGE OF BURR RIDGE (the “Village”), by and through their attorneys, KLEIN, THORPE AND JENKINS, LTD., and pursuant to Title 83 (Public Utilities), Chapter I (Illinois Commerce Commission), Part 200 (Rules of Practice), Section 200.170 (Formal Complaints) of the Illinois Administrative Code, 83 Ill. Admin. Code § 200.170, and Title 83 (Public Utilities), Chapter I (Illinois Commerce Commission), Part 200 (Rules of Practice), Section 200.220 (Declaratory Rulings) of the Illinois Administrative Code, 83 Ill. Admin. Code § 200.220, hereby formally complain of the Respondent COMMONWEALTH EDISON COMPANY (“ComEd”) and seek a Declaratory Ruling as follows:

**Parties**

1. Complainant, the VILLAGE OF BURR RIDGE, is a non-home rule municipal entity incorporated under the laws of the State of Illinois and located within Du Page and Cook Counties, Illinois, with its principal place of business located:

7600 County Line Road  
Burr Ridge, Illinois 60527

Ph: (630) 654-8181  
Fax: (630) 654-8269

2. The Village is represented by their attorneys, KLEIN, THORPE AND JENKINS, LTD., with contact information as follows:

Scott F. Uhler  
Terrence M. Barnicle  
Howard C. Jablecki  
Klein, Thorpe and Jenkins, Ltd.  
20 N. Wacker Drive, Suite 1660  
Chicago, Illinois 60606  
Ph: (312) 984-6400  
Fax: (312) 984-6444  
[sfuhler@ktjlaw.com](mailto:sfuhler@ktjlaw.com)  
[tmbarnicle@ktjlaw.com](mailto:tmbarnicle@ktjlaw.com)  
[hcjablecki@ktjlaw.com](mailto:hcjablecki@ktjlaw.com)

3. The Village agrees to accept service by electronic means as provided for in Section 200.1050 of the Commission's Rules of Practice. (83 Adm. Code 200.1050.)

4. Respondent, ComEd, is a corporation organized under the laws of the State of Illinois. Upon information and belief Respondent's correct contact information is as follows:

Calvin Baker  
Vice President of External Affairs  
Commonwealth Edison Company  
440 S. LaSalle Street.  
Chicago, Illinois 60605  
Ph: (312) 394-4951

### **Jurisdiction**

5. The Illinois Commerce Commission has the authority and jurisdiction to hear formal complaints pursuant to 83 Ill. Admin. Code § 200.170.

6. The Illinois Commerce Commission, when requested by an affected party, may issue a declaratory ruling with respect to the applicability of any statutory provision enforced by

the Commission or any Commission rule to the person(s) requesting such declaratory ruling. 83

Ill. Admin. Code § 200.220.

### **Formal Complaint for Declaratory Ruling**

7. ComEd controls and operates a 138kV transmission line (the “Transmission Line”) that runs through areas of the Village over certain recorded easements, public property and public ways.

8. As part of its maintenance of the Transmission Line, ComEd has previously adopted and utilized a standard vegetation management plan consisting of a five-year trimming program providing for the proper trimming of vegetation in and around the Transmission Line, in order to ensure the reliability and safety of the Transmission Line.

9. On April 9, 2009, the Village and ComEd entered into an Agreement concerning vegetation management along the Transmission Line (the “Agreement”). A copy of this Agreement is attached hereto as **Exhibit A** and made a part hereof.

10. Under Paragraph 4 of the Agreement, residents of the Village are given an option to choose either of two options for vegetation management.

11. Village residents are allowed to choose either the ComEd Standard Vegetation Management Plan, or the Burr Ridge Vegetation Management Plan, both of which are described in the Agreement.

12. The ComEd Standard Vegetation Management Plan includes a five-year cycle plan that relies on a “wire zone” and a “border zone”. In essence, the Plan requires removal of trees greater than 10 feet tall in the wire zone, and trimming of trees in the border zone to a clearance of 25 feet.

13. Under its Plan, ComEd is required to periodically trim or remove trees. ComEd is required to conduct annual inspections of vegetation. ComEd is also required to meet with the individual residents to develop a landscaping plan for areas along the Transmission Line under its Plan. Permits for tree removal and re-landscaping must be obtained under the ComEd Plan. All trimming is to be completed to ANSI standards, using best management practices. UFM is to be present, at the Village's expense, to discuss best pruning practices that allow for trimming and removal under the standards. See Agreement, Paragraph 4(A).

14. If a Village resident chooses the ComEd Standard Vegetation Management Plan, ComEd will also offer that resident a reasonable vegetation landscaping plan, subject to the approval of such plan by the resident.

15. The Burr Ridge Vegetation Management Plan is based upon a plan for the property between 81<sup>st</sup> and 83<sup>rd</sup> Streets, to serve as a template for the rest of the Transmission Line.

16. The Agreement provides that the Burr Ridge Vegetation Management Plan is a variation of the ComEd Vegetation Management Plan, however, the Burr Ridge Plan would not include any replacement trees or vegetation landscaping plans, as provided under ComEd's plan, at ComEd's expense.

17. The Village agreed that if ComEd incurred costs in the execution of the Burr Ridge Management Plan, over that which ComEd would incur in the execution of ComEd's Standard Vegetation Management Plan, such costs could be recovered under the provisions of ComEd's Rider LGC, or by direct payment from the Village to ComEd. Agreement, Paragraph 4(B)(iii). This potentially could include some tree trimming over a period of time, in certain areas for some trees, under the Burr Ridge Vegetation Management Plan, where such trees

might otherwise be subject to removal, at ComEd expense, under the ComEd Standard Vegetation Management Plan.

18. ComEd's Rider LGC, Local Government Compliance Adjustment, was issued pursuant to the Illinois Commerce Commission Order entered July 26, 2006, in Docket No. 05-0597, and specifically states in relevant part as follows:

In the event that a Local Government Unit enacts an ordinance or otherwise utilizes its constitutional or statutory powers to compel the Company, directly or indirectly, to perform any combination of the following:

- a. provide a service in addition to, different from, or instead of a service which the Company would otherwise be required to provide,

... the costs of providing such service...are recovered from the Company's retail customers located within the boundaries of such Local Government Unit in accordance with the provisions of the Adjustment Computation and Application Section of this rider.

For the purposes of this rider, the Company is otherwise required to provide a service...in a particular manner only if it is obliged to do so (a) under a state or federal statute, (b) under a state or federal regulation, or (c) in accordance with the provisions for providing standard service and facilities in the Company's then current Schedule of Rates filed with the Illinois Commerce Commission (ICC).

A copy of the Rider LGC is attached hereto as **Exhibit B** and made a part hereof.

19. On May 22, 2009, ComEd sent a letter to the Village alleging that it has incurred "additional supervision costs associated with the Burr Ridge Vegetation Management Plan," with such alleged "additional" costs totaling \$11,333.91. ComEd has indicated that if this amount is not paid by the Village, it will begin charging the costs to residential customers under the provisions of Rider LGC. A copy of this letter and an itemization of alleged "additional" costs is attached hereto as **Exhibit C** and made a part hereof.

20. Relative to its May 22, 2009 letter, under the itemization of additional costs, ComEd includes such services as “meeting with residents,” “trimming supervision,” “Village hall meeting – met with customers,” and meetings with Village staff.

21. None of these costs are “additional” in any way. None can be lawfully imposed on Village residents under the Agreement or the LGC Rider.

22. ComEd has not been required to engage in any of these activities by virtue of any requirement imposed by the Village of Burr Ridge. ComEd’s obligations under its own Standard Vegetation Management Plan include all of these activities, including meeting with residents, the development of landscaping plans, any supervision of the trimming and removal of trees, and working with Village staff to obtain permits and develop plans.

23. Rider LGC only allows for the payment of incremental costs by ratepayers for services that are required by local regulations, in addition to, different from, or instead of services ComEd is otherwise required to provide under state or federal statutes or regulations, or by the ICC.

24. “Meeting with residents,” “trimming supervision,” “Village hall meeting,” and meetings with Village staff are not services in addition to, different from, or instead of any service that ComEd performs, but rather are all the exact same types of services it has agreed to perform under its own Standard Vegetation Management Plan.

25. Therefore, ComEd has no authority to charge any additional costs to the Village’s residential customers under the provisions of Rider LGC.

26. On June 2, 2009, the Village’s attorney sent a letter to ComEd responding to its May 22, 2009 letter, in which the Village indicated the additional costs claimed by ComEd were not incurred in the performance of any work in excess of the ComEd Standard Vegetation

Management Plan. A copy of the June 2, 2009 letter is attached hereto as **Exhibit D** and made a part hereof.

27. On June 19, 2009, the Village's attorney received a letter from ComEd responding to the Village's position outlined in the June 2, 2009 letter, in which ComEd again, without any additional documentation or support, simply contends that they incurred "additional" costs that the Village is responsible for under the Agreement. A copy of the June 19, 2009 letter from ComEd is attached hereto as **Exhibit E** and made a part hereof.

WHEREFORE, the Complainant, VILLAGE OF BURR RIDGE, hereby seeks an order and declaratory ruling by the Illinois Commerce Commission as follows:

- A. ComEd is prohibited from charging the costs outlined in its May 22, 2009 letter to residential ratepayers under the provisions of Rider LGC.
- B. ComEd is prohibited from charging any future costs incurred for meeting with residents, Village staff, and trimming supervision to residential ratepayers under the provisions of Rider LGC, as such services are not required in addition to, different from, or instead of a service ComEd would otherwise provide.
- C. For such further relief deemed fair and just.

Dated: July 9, 2009

Respectfully submitted,

VILLAGE OF BURR RIDGE

By: /s/ Howard C. Jablecki  
One of its attorneys

Scott F. Uhler  
Terrence M. Barnicle  
Howard C. Jablecki  
Klein, Thorpe and Jenkins, Ltd.  
20 N. Wacker Drive, Suite 1660  
Chicago, Illinois 60606-2903  
Ph: 312-984-6400  
Fax: 312-984-6444